IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Crl.MC.No. 3331 of 2007()

ST.575/1997 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM
.....

PETITIONER: ACCUSED

KESAVAKUMAR, PROPRIETOR,
CLASSIC TRADERS, GURUDEVA VILASOM,
PETTAH, THIRUVANANTHAPURAM.

BY ADV. SRI.WILSON URMESE
SRI.M.C.ANTONY

RESPONDENTS: COMPLAINANT AND STATE
---

1. T.P.ARAVINDAKSHAN, MANAGING PARTNER,
S.R.PARAMJOTHI, T.C.17/2051, POOJAPPURA,
THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/11/2007 ALONG WITH CRMC.NO.3336/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.Nos.3331 & 3336 of 2007

Dated this the 1st day of November 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in two separate prosecutions under Section 138 of the Negotiable Instruments Act. He faces the sentence of imprisonment till rising of court in both cases. He has also been directed to pay an amount of Rs.1,30,000/- in one prosecution and Rs.1,50,000/- in the other as compensation to the complainant and in default to undergo S.I for a period of two months in both cases.

2. According to the petitioner, he has already paid the entire amounts due to the complainant. The complainant has no grievance now. The complainant has filed an application to that effect before the learned Magistrate. Still the learned Magistrate is insisting that the petitioner must undergo the default sentences. It is, in these circumstances, that the petitioner has come to this court.

3. I find no substance in the grievance raised. It is for the petitioner to appear before the learned Magistrate and undergo substantive sentences of imprisonment till rising of court. If the petitioner and the complainant satisfy the learned Magistrate that the compensation amounts payable to the complainant in each case have already been paid, there can be no question of the default sentences being imposed thereafter. The position has been made absolutely clear in the decision in Girish v. Muthoot Capital Service (P) Ltd. [2007(1) KLT 16]. In the light of that decision, no further directions appear to be necessary.

4. In the result, these petitions are dismissed but with the specific observation that if the petitioner and the complainant satisfy the learned Magistrate that the compensation amounts in each case have already been paid and discharged, the learned Magistrate shall not proceed to execute the default sentences.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007